

DOWNEY BRAND LLP
SALLIE B. ARMSTRONG (Bar No. 1243)
MICHELLE N. KAZMAR (Bar No. 10098)
427 West Plumb Lane
Reno, NV 89509
Telephone: (775) 329-5900
Facsimile: (775) 786-5443
Email: reno@downeybrand.com

Attorneys for Z Servicing, Inc.

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA

In Re:

BIG STUFF STORAGE, LLC,

Debtor.

Case No. BK-N-10-50471-GWZ

Chapter Number: 11

**STATEMENT IN SUPPORT OF AND
JOINDER IN MOTION TO CONVERT
CASE TO CHAPTER 7**

Hearing Date: February 22, 2012
Hearing Time: 2:00 p.m.

Z Servicing, Inc. ("Z Servicing"), by and through its attorneys, Downey Brand LLP, files this Statement in support of (and specifically joins in) that portion of the Acting United States Trustee's ("U.S. Trustee") *Motion to Convert Case to Chapter 7 or Dismiss Pursuant to 11 U.S.C. §1112(b)* (the "Motion"), which requests that the above-captioned Chapter 11 case be converted to a case under Chapter 7. This Statement is based on the following memorandum of points and authorities, all papers and pleadings on file herein, and any argument entertained by the Court at the time of hearing.

MEMORANDUM OF POINTS AND AUTHORITIES

**I.
INTRODUCTION**

The U. S. Trustee has requested that this case be converted or dismissed based on the Debtor's failure to file required reports and timely pay quarterly Chapter 11 fees. However, as more fully set forth herein, the Debtor has failed to comply with it the *Order Confirming Debtor's*

1 *Plan of Reorganization* (“Confirmation Order”) entered on December 30, 2010 in numerous
 2 respects. Several of the Debtor’s defaults are detailed in the Response filed by Branch Banking &
 3 Trust Co. (“BB&T”). Additionally, there are defaults to Z Servicing. But, contrary to BB&T, Z
 4 Servicing respectfully suggests that this case should be converted, **not** dismissed.

5 II.

6 **GROUND EXISTS FOR CONVERSION, NOT DISMISSAL**

7 When this Court was first considering the issues surrounding the Debtor’s Plan of
 8 Reorganization, there was no dispute that there was substantial equity in the property which
 9 secures both BB&T’s claim, as well as Z Servicing’s claim (as the servicer for various note
 10 holders). BB&T was owed slightly in excess of \$1,000,000, Z Servicing was owed principal of
 11 \$260,000.00, and the only opinion of value of the property before this Court was an appraisal
 12 which placed the value of the property at \$1,725,000.00. *See* Doc. No. 30.

13 While there is probably no dispute that the value of the property has deteriorated, BB&T
 14 has been paid under the Confirmation Order through the payment due on November 15, 2011. As
 15 a result, the amount due it should not be rapidly increasing, and, thus, there should still be
 16 sufficient equity in the property to justify having a Trustee appointed to try and sell the property
 17 for the benefit of all creditors, including Z Servicing (the Trustee may also be able to make
 18 payments to BB&T while he/she is investigating the sale of the property).

19 III.

20 **THE DEFAULTS TO Z SERVICING**

21 The Debtor, as it is to BB& T, is in default on its payments to Z Servicing. The Debtor
 22 ceased making payments to Z Servicing in July 2011, and the unpaid interest due Z Servicing as
 23 of December 31, 2012 was \$12,257.84. Moreover, as alleged by BB&T, the Debtor has failed to
 24 remain current on taxes. Finally, the Debtor has failed to provide Z Servicing with a balance
 25 sheet and a profit and loss statement monthly as required by the Confirmation Order.

26 The Debtor has responded to the Motion stating that it will have its quarterly operating
 27 reports current and payment of its fees will be current prior to the hearing. However, that is too
 28 little too late. The Debtor is not in compliance with the Confirmation Order, and technical

1 conformity with the U.S. Trustee's objection should not be sufficient for the Debtor to avoid
2 conversion. A trustee needs to take control of this property and determine what, if any, value can
3 be realized from the property over the amount owed to BB&T. Since the property is income
4 producing, there are funds available for the payment of Chapter 7 administrative expenses, and,
5 consequently, there is no danger that a trustee will be saddled with a property which will result in
6 a loss to the Chapter 7 bankruptcy estate.

7
8 **IV.**
CONCLUSION

9 Based on the above, Z Servicing supports and joins in that portion of the Trustee's Motion
10 requesting conversion to a Chapter 7 case, and it asks that this Court enter an order accordingly.

11 DATED: February 8, 2012.

DOWNEY BRAND LLP

12 By: 
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SALLIE B. ARMSTRONG

MICHELLE N. KAZMAR

14 Attorneys for Z Servicing, Inc.
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